

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Status of the Claims

Claims 1, 4-6, 8-9, 12, 14, 20, 24, 27-35, and 40 have been cancelled without prejudice. Claims 2, 7, 11, 13, 15, 16, 17, 21-23, 25, 26, 36, 38, 39, 42, and 43 are currently being amended. After amending the claims as set forth above, Claims 2-3, 7, 10, 11, 13, 15-19, 21-23, 25-26, 36-39, and 41-43 are now pending in the present Application.

Interview Summary

On April 11, 2005, Examiner Nicolas and the undersigned conducted an interview. During the interview, Examiner Nicolas and the undersigned discussed U.S. Patent Application Publication No. 2002/0195471 ("Nottingham et al.") and Claims 1 and 16. The Examiner agreed that he would consider amendments made to the claims in the present Amendment and Reply.

Claims Indicated to be Allowable if Rewritten in Independent Form

In Section 7 of the Office Action, the Examiner stated that "Claims 10, 22 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims."

Claim 22 previously depended from independent Claim 20. Claim 22 has been rewritten in independent form to include all the limitations of the rejected base claim (Claim 20) and any intervening claims (none).

Claim 43 previously depended from independent Claim 1. Claim 43 has been rewritten in independent form to include all the limitations of the rejected base claim (Claim 1) and any intervening claims (none).

Claim 10 depends from Claim 43, which has been amended to be in a form indicated to be allowable.

Accordingly, Applicants respectfully request reconsideration and allowance of Claims 10, 22, and 43, as amended.

Claim Objections

In Section 1 of the Office Action, the Examiner stated that "Claim 1 is objected to because of the following informalities: in claim 1, line 13, 'the attachment mechanism' lacks proper antecedent basis in the claim. Appropriate correction is required."

Claim 1 has been cancelled and is no longer pending in the present Application.

Claim Rejections – 35 U.S.C. § 102

In Section 3 of the Office Action, the Examiner stated that "Claims 1-3, 7, 11, 15, 36-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Nottingham et al. 2002/0195471."

Claim 1 has been cancelled. Claims 2, 7, 11, 15, 36, and 39 have been amended to depend from new independent Claim 43, which has been amended to be in a form the Examiner indicated would be allowable. Claims 3 and 37 depend from Claims 2 and 7, respectively, each of which now depends from new independent Claim 43. Claim 38 has been amended to depend from new independent Claim 22, which has been amended to be in a form the Examiner indicated would be allowable.

Each of Claims 2-3, 7, 11, 15, 36-39 now depend, either directly or indirectly, from a claim that is in a form that was indicated to be allowable. Accordingly, Applicants respectfully request reconsideration and allowance of Claims 2-3, 7, 11, 15, and 36-39.

In Section 4 of the Office Action, the Examiner stated that "Claims 16-21, 23, 25-26, 41-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Nottingham et al. 2002/0195471." The Examiner stated:

Nottingham et al. disclose a paint container (see the attached labeled drawings of page 79 of Nottingham et al.), which comprises a body having a bottom, a plurality of side walls, and a top, a threaded raised portion extending from the top, a spout proximate the top and located within the raised portion (see labeled Figs. 1-3 for location of the threaded raised portion and spout), the spout defining a pouring direction, a first handle located proximate the side walls, a second handle pivotally secured proximate the top and attached to the body along a line perpendicular to the pouring direction, the second handle being attached directly to a portion of the body at pivots spaced from and independent of the raised portion as seen in Figures 1-4, a depression in the top (see Fig. 3 for location).

Claim 20 has been cancelled. Claims 21, 23, 25, 26, and 42 have been amended to depend from new independent Claim 22, which has been amended to be in a form the Examiner indicated would be allowable. Accordingly, Applicants respectfully request reconsideration and allowance of Claims 21, 23, 25, 26, and 42.

Claim 16 has been amended. Claims 17-19 and 41 depend from independent Claim 16. As amended, Claim 16 recites a combination including, among other elements, a second handle, “wherein the second handle is moveable about the pivots between a first position in which a center portion of the second handle is positioned generally proximate the top of the body and a second position in which the center portion of the second handle is spaced apart from the top of the body; and wherein the spout, the first handle, and the center portion of the second handle lie within a common vertical plane and wherein the center portion of the second handle remains within the plane when it is pivoted between the first position and the second position.”

The portions of Nottingham et al. cited by the Examiner (e.g., the figures illustrated on page 79) do not identically disclose the combination of elements recited in Claim 16, as amended. As illustrated in what the Examiner labeled as Figures 2 and 3 of Nottingham et al. (see the labeled drawings attached to the Office Action), the center portion of what the Examiner identified as the second handle does move between a first position in which a center portion of the second handle is positioned generally proximate the top of the body and a second position in which the center portion of the second handle is spaced apart

from the top of the body. However, the center portion of the second handle does not remain in the same vertical plane as the first handle and the spout when the second handle moves between the first and second positions. Rather, the center portion of the second handle lies within the same plane as the spout and the first handle when the second handle is in the second position (see Fig. 2) but moves out of the plane when the second handle is moved out of the second position (see Fig. 3). As illustrated in Fig. 2, the orientation of the second handle is such that when it is in the second position, a portion of it is located in front of the spout and will likely interfere with a stream of paint poured from the spout. Consequently, to avoid pouring paint on the second handle when paint is poured from the container, the second handle must be in the first position (or at least not in the second position). With the second handle in the first position, the user of the paint container has only the first handle to make use of when pouring paint from the container. Accordingly, while the orientation of the second handle illustrated in Figures 1-4 of Nottingham et al. allows it to be used for carrying the container from one location to another, it does not allow it to be used when paint is poured from the container.

Unlike the second handle of the paint container illustrated in Figures 1-4 of Nottingham et al., the second handle of a paint container according to Claim 16 can be used while paint is being poured from the container without interfering with the stream of paint. Accordingly, a user of the container is able to use both the first and second handles as he or she pours paint from the container, which allows the user to maintain better control over the container. For example, when a user pours paint from the container, he can hold the second handle steady with his left hand and adjust the amount of paint poured from the container by using his right hand to grasp the first handle and rotate the first handle (and therefore the container) around the pivot axis of the second handle. Essentially, the user is able to use one hand to steady the pivot axis (the axis of rotation of the second handle) and the other hand to control the rotation of the container around the pivot axis.

As demonstrated above, the container illustrated in Figures 1-4 of Nottingham et al. does not identically close the combination of elements recited in Claim 16, as amended. Accordingly, Applicants respectfully request reconsideration and allowance of independent Claim 16 and corresponding dependent Claims 17-19 and 41.

Claim Rejections – 35 U.S.C. § 103

In Section 6 of the Office Action, the Examiner stated that “Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nottingham et al. 2002/0195471 in view of Moore 5,251,788.”

Claim 13 has been amended to depend from new independent Claim 43, which has been amended to be in a form the Examiner indicated would be allowable. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 13.

Statement on Examiner’s Reasons for the Rejections

The claims rejected by the Examiner have been amended or cancelled solely for the purpose of obtaining quick allowance of the claims. Applicants wish to emphasize that in making such amendments or cancellations, Applicants in no way acquiesce in the Examiner’s reasons for the rejections of the claims. Applicants expressly reserve the right to file one or more continuing applications that include claims the Examiner rejected during the prosecution of this Application. Applicants do not intend for any amendment made during the prosecution of this Application to affect the scope of any claims that may be presented in any continuing applications.

* * * *

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or

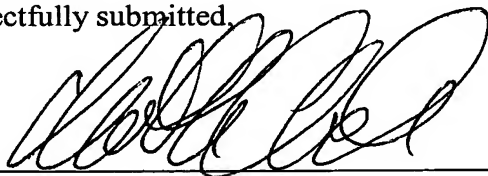
even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date

4/18/05

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